

**WYCW CERTIFICATION OF COMPLIANCE WITH  
COMMERCIAL LIMITS IN CHILDREN'S PROGRAMMING  
4<sup>th</sup> QUARTER 2006**

ANALOG CHANNEL 62 AND DTV CHANNEL 45 aired the following programming originally produced and broadcast primarily for an audience of children twelve years old and younger during this quarter:

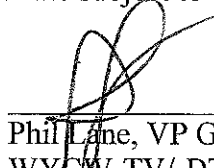
Children's Program	Days and Times Aired	Date	Commercial Matter
Krypto The Super Dog	Saturday 7am – 7:30am	10/7-12/30	5m 15s
Krypto The Super Dog	Saturday 7:30am-8am	10/7-12/30	5m 15s
Loonatics Unleashed	Saturday 8a-830a	10/7-12/30	5m 15s
Tom and Jerry Tales	Saturday 8:30a – 9am	10/7-12/30	5m 15s
Shaggy & Get A Clue	Saturday 9am – 9:30am	10/7-12/30	5m 15s
Johnny Test	Saturday 9:30am-10am	10/7-12/30	5m 15s
Legion of Super Heroes	Saturday 10a-10:30a	10/7-12/30	5m 15s
The Batman	Saturday 10:30a-11a	10/7-12/30	5m 15s
Xiaolin Showdown	Saturday 11a-11:30a	10/7-12/30	5m 15s
Monster Allergy	Saturday 11:30a-12p	10/7-12/30	5m 15s

The Children's Television Act and the FCC's rules impose the following commercial limits:

1. Children's programming may not contain more than 10.5 minutes of total commercial matter per clock hour on weekends and no more than 12.0 minutes of total commercial matter per clock hour on weekdays.

After due review of internal station records and documentation provided to us by program suppliers, WYCW-TV/-DT hereby certifies:

- ☒ that it complied fully with the FCC's commercial limits with respect to all children's programs broadcast during this quarter that are subject to those requirements.
- ☐ that it did not comply fully with the FCC's commercial limits with respect to all children's programs broadcast during this quarter that are subject to those requirements, as explained in Attachment A hereto.

  
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Phil Lane, VP General Manager  
WYCW-TV/-DT

January 9, 2007  
Date

**Fareed, Shukriyyah M.**

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**From:** info@cwtvlink.com  
**Sent:** Monday, January 08, 2007 11:51 PM  
**To:** Fareed, Shukriyyah M.  
**Subject:** Kids' WB!: Apparent Violation - December 23, 2006



## **Kids' WB!: Apparent Violation - December 23, 2006**

**To:** General Managers, Station Managers, Program Directors  
**From:** The CW Network  
**Date:** January 8, 2007

### **Subject: Kids' WB! Apparent Violation – December 23, 2006**

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During the Kids' WB! programming block on Saturday, December 23, 2006, there was an apparent violation of the FCC's children's advertising rules.

Specifically, a CW network commercial (for Post Cereal's Cocoa Pebbles) during the show *Xiaolin Showdown* contained glimpses of *Xiaolin Showdown* characters on a small portion of the screen. The images were small, fleeting, and confined to a small area of the picture, but they were there.

Unfortunately, the technology we used to review children's commercials prior to air proved inadequate in this instance to identify the miniscule character images in the portion of the screen in which they appeared. As a result, we've already made some changes in the technology and procedures we use for pre-broadcast review of commercials in children's shows.

The CW fully understands the seriousness of this issue. We want to assure you that that we are reviewing our technology and protocols for screening advertising in children's programming from top to bottom in an effort to avoid repetition of this regrettable error, for which we apologize.

We will provide more information shortly.

In the interim, please contact your affiliate representative if you have further questions.

AKIN GUMP  
STRAUSS HAUER & FELD LLP

Attorneys at Law

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**ATTORNEY-CLIENT PRIVILEGED**

February 2, 2007

VIA FACSIMILE AND REGULAR MAIL

Jeremy Sunderland  
Vice President & Deputy General Counsel  
The CW Television Network  
3300 West Olive Avenue  
Burbank, California 91505

Dear Jeremy:

Below please find our analysis of the incident at hand.

During the December 23, 2006 telecast of "Xiaolin Showdown" ("Episode"), a network commercial for Post Cereal's Cocoa Pebbles ("Commercial") was broadcast that contained images of pages from Post Cereal's Postopia.com website, including the navigation bar at the top of the pages of Postopia.com. The navigation bar included pictures of characters from the Episode. Each of the images of the Postopia.com website were visible for a very brief amount of time and the images of the characters from the Episode on the navigation bar were very small.

The airing of the commercial during the Episode differs from those instances where the Federal Communications Commission ("FCC") has determined that a broadcaster has violated its prohibition against program-length commercials. For example, in a series of decisions in 2005 and 2006, the FCC's Media Bureau considered whether the broadcast of a commercial for GameBoy E-Reader, which included an obscured image of Pokemon game cards for a brief moment, during an episode of "Pokemon" turned the entire program into a program-length commercial. Although the GameBoy commercial did not depict any Pokemon characters, it did depict a Pokemon-related product in a commercial aired during a "Pokemon" episode. Consequently, the Media Bureau treated the entire "Pokemon" episode as a program-length commercial. The instant situation is distinguishable from the Pokemon case because, although the Commercial depicts the Episode characters, it does not depict any Xiaolin Showdown-related products available for purchase.

The FCC has stated that in order to be deemed a program-related commercial, the commercial must involve a program-related product, which is not the case here. Specifically, the Commercial promoted Cocoa Pebbles cereal, a product with no connection to the Episode or the

Jeremy Sunderland  
February 2, 2007  
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Xiaolin Showdown characters. The depiction of characters from the Episode in the Commercial alone, where the Commercial does not otherwise offer or even depict program-related products, should not result in the entire Episode being treated as a program-length commercial.

In sum, since the FCC precedent indicates that the program-length commercial policy applies only where the commercial promotes program-related products, it is our belief that the policy is inapplicable to the instant situation because the commercial did not promote any Xiaolin Showdown-related products.

We believe that at most the Commercial may be deemed to violate the FCC's broadcast host-selling policy because it depicts characters from the Episode in connection with the sale of Cocoa Pebbles. The Episode, however, appears not to violate the FCC's website host selling policy because the content on Postopia is not primarily devoted to free noncommercial content relating to the Episode or Xiaolin Showdown generally, but rather is a third-party advertisement for a third-party website with pages devoted to multiple characters from multiple programs.

In light of the potential broadcast host-selling violation, we recommend that CW advise its affiliates to: (a) retain records regarding the airing, including placing such information in the station's public file; and (b) disclose the airing to the Commission in the license renewal application covering the period of time in which the Commercial aired.

Sincerely,



Kathleen Q. Abernathy